



SUMMARY REPORT OF THE MEETING HELD BY
THE EUROPEAN ASSOCIATION OF JUDGES - REGIONAL GROUP OF THE I.A.J.

MEXICO, 16 and 20 October 2016

Session of Sunday 16 October 2016

The meeting started at 9.10 a.m.

In attendance were the EAJ President, Mr. Christophe Régnard, the Vice Presidents Mr. José Manuel Igreja Matos and Mr. Đuro Sessa, the Honorary Presidents Mr. Jose Maria Bento Company, Mr. Gerhard Reissner and Mr. Günter Woratsch, the Secretary-General Mr. Giacomo Oberto, as well as the delegates of the following associations, which are members of the International Association of Judges and of the European Association of Judges:

ALBANIA - Proxy to Italy	ISRAEL
ARMENIA	ITALY
AUSTRIA	LIECHTENSTEIN
AZERBAIJAN	LITHUANIA
BELGIUM	LUXEMBOURG
BOSNIA AND HERZEGOVINA - Proxy to Croatia	MONTENEGRO
BULGARIA - Proxy to Switzerland	NETHERLANDS
CROATIA	NORWAY
CZECH REPUBLIC - Proxy to Hon. Pres. Woratsch	PORTUGAL
DENMARK	SERBIA - Proxy to Slovenia
ESTONIA	SLOVAKIA - Proxy to Hungary
FINLAND	SLOVENIA
FRANCE	SPAIN
GEORGIA	SWEDEN
GERMANY	SWITZERLAND
GREECE	TURKEY - Proxy to Switzerland
HUNGARY	UKRAINE
ICELAND	UNITED KINGDOM
IRELAND	

The Secretary-General Oberto carried out a check on votes and proxies: 37 members were present (in attendance or by proxy). There were seven proxies: from the association of Albania to the association of Italy; from the association of Bosnia and Herzegovina to the association of Croatia; from the association of Bulgaria to the association of Switzerland; from the association of Czech Republic to Honorary President Woratsch; from the association of Serbia to the association of Slovenia; from the association of Slovakia to the association of Hungary and from the association of Turkey to the association of Switzerland.

President Régnard welcomed the attendants and thanked the Mexican Association for granting the simultaneous translation. He informed the Assembly about the absence of the Turkish delegation and read a message sent by the President of the Association, Mr. Murat Arslan.

1. Approval of the minutes of the Jerusalem Meeting

President Régnard asked whether there were any remarks on the minutes of the meeting held in Jerusalem and, having received negative answer, established it as approved.

2. Report of the President

President Régnard asked whether there were any remarks on his report and, having received negative answer, established it as approved. He announced that most of the issues dealt with in his report would be addressed specifically under the following points of the agenda.

3. Situation of the judiciary in Turkey and actions undertaken by EAJ

President Régnard recalled the activities carried out after the EAJ meeting in Jerusalem and especially after the coup of mid-July, after which the local association, Yarsav, was dissolved, many colleagues were put in jail and 3500 were dismissed without any chance to defend themselves. All the solidarity interventions and initiatives by national associations and by the EAJ can be found on the IAJ website. In addition, in the present meeting of the Central Council, a badge entitled “solidarity for Yarsav” shows the attitude of the entire IAJ towards the Turkish colleagues. The EAJ created a platform with MEDEL, the European Association of Administrative Judges, and Judges for Judges. The Platform decided to have a press conference in September, which was postponed, and then had a meeting in Strasbourg last Monday and a press conference in Brussels on Tuesday, organized by MEDEL. President Régnard was heard by the Parliamentary Assembly of the Council of Europe, where he explained the situation in Turkey. He met also representatives of the International Committee of the Red Cross, who told him that the ICRC could not take a stand for judges and prosecutors because of its poor relations with the Turkish Government. President Régnard and some members of the WG on the situation of member associations had regular contacts with the Turkish colleagues: conditions of detention are quite hard and there were at least two cases of suicide. The EAJ launched a petition that collected thousands of signatures: the association must now decide when and to who deliver the petition. The ENCJ is evaluating the possibility of suspending the Turkish High Council, which at present is an observer: the decision will be taken at the beginning of December. The Italian School for the Magistracy interrupted any form of cooperation with the Turkish judiciary. The French Association declined the proposal to meet in Paris the representatives of another Turkish Association of Judges, founded in 2014 and very dependent on the Government.

Mr. Zuccarelli (Italy) took the floor and proposed to ask the Central Council to adopt a general resolution on the issue.

President Régnard agreed and then gave the floor to Mr. Gass, Chairman of the WG on associations. Mr. Gass told the Assembly that the WG discussed the issue of the petition and imagined to hand over the petition to the President of the European Council, who is now Estonian. Mr. Meelis is taking contacts with the Estonian authorities to verify whether it would be possible to deliver the petition in Tallin, before the end of November when the Presidency of the European Council will change.

Honorary President Reissner underlined that the event would represent a success not only for Estonia but also for the EAJ and agreed with Mr. Zuccarelli on the idea of a resolution approved by the Central Council, if it was presented according to the rules.

Ms. Matejka (Austria) suggested asking the Central Council to declare that Yarsav was still a member of the IAJ: acknowledging that the Government dissolved the Association, the Central Council could welcome its members as representative groups according to its Constitution.

President Régnard noticed that the issue of the present status of Yarsav within the IAJ must be addressed soon, since the association does not exist anymore in an official way. One of the aspects to consider is that, if Yarsav remains as an IAJ member it must pay its annual contributions somehow and it is clear that the Turkish colleagues cannot do it.

Mrs. Jansen (the Netherlands) took the floor to thank the EAJ for the work done till now and to inform the Assembly that her Association had a meeting with the Dutch Minister of Foreign Affairs

and showed him all the documents issued by the IAJ and EAJ on the situation in Turkey. She added that her Association supported the idea of a resolution that should be very focused on what is happening.

Mrs. Thune (Norway) informed the Assembly about the resolution approved by the Nordic Associations and sent to governmental authorities. The Secretary-General of the Council of Europe and the President of the CCJE are Norwegian and the Association's Board is confident to draw their attention on the case of Turkey. The Nordic Group suggests also establishing a group of observers to observe trials against judges. President Régnard noted that going to Turkey would be efficacious but seems rather complicated. The verification of detention conditions would be useful too but seems not feasible. Nevertheless, any concrete proposal to carry into execution the Nordic Council's suggestions is welcome.

Honorary President Reissner noted that sending a mission of observers in Turkey would be dangerous and, probably, ineffective. Quite often, the criminal proceedings are not open to the public and, in other cases, the audiences are postponed at the very last moment to impede the participation of foreign observers. President Régnard added that the EAJ must take any precaution not to endanger the Turkish colleagues.

President Régnard announced the arrival of the IAJ President, Mrs. Cristina Crespo, who greeted the attendants and then summarized the efforts made at IAJ level to help the members of Yarsav: she took contacts with the UN Special Rapporteur on the Independence of Judges and Lawyers, the UN rapporteur on torture, the International Committee of the Red Cross. Mrs. Crespo declared herself available for any other initiative decided by the EAJ and IAJ.

President Régnard thanked President Crespo and asked whether the Assembly agreed on the adoption of a resolution. The Assembly unanimously approved.

President Régnard then asked the Assembly whether it approved the proposal to bring the signatures of the petition to Tallin and the Assembly unanimously approved.

President Régnard then recalled the cool reception of the press conference organized by the Platform, which was also a sign of the lack of interest of European Governments towards the situation of judges in Turkey after the coup.

Mrs. Parisot (France) took the floor to inform the Assembly about the recommendation received by the French liaison judge in Turkey, who is the only foreign judge in the country now. He suggested to the French Association to accept the request of contacts by the new association established in Turkey, the members of whose Boards are the ones charged of the proceedings against the members of Yarsav. The USM, together with another French association of judges, decided to refuse contacts, highlighting that the new Turkish association does not protect judges nor defends the independence of the judiciary. Coming back to the issue of the membership of Yarsav, Mrs. Parisot said that the USM was available to cover part of the yearly contribution of Yarsav.

Vice-President Igreja underlined the importance of remaining focused and proposed three main phases of action. First, to make pressure on international institutions and media, for example by the resolution and the release of the petition in Tallin. Second, to support individual judges and their families, for example by the Fund and the establishment of a database. Third, the EAJ must act as a catalyst for the work of national associations.

4. Working Group on the Situation of the EAJ's Member Associations

4.1 - Report of the President

4.2 - Situation of the judiciary in different countries (Poland, Bulgaria ...)

4.3 - Debates on the draft ECHR-Protocol on judicial independence

4.4 - Cooperation with Council of Europe (CDCJ, CEPEJ, Venice Commission, CCJE, CCPE ...)

Mr. Gass took the floor to illustrate the proposal of the WG to postpone the examination of the draft protocol to the ECHR to the meeting in Moldavia. The reason lies in the fact that the Universal Charter of the Judge is under review and it seems preferable to compare the two drafts.

Therefore, a member of the WG on the Charter will help the WG on the situation of member associations to revise the draft protocol in view of its presentation in Chisinau.

President Régnaud said that the revision of the Charter was in progress and that the Working Group planned to discuss the text in Mexico City, to be able to present it to the Regional Groups in springtime. The idea of postponing the debate and coordinating the documents is, therefore, logical. The draft Charter will be sent to the national Association with a due delay, in order to allow them to make their suggestions in written form.

Mr. Gass then mentioned the case of Bulgaria, where a new law obliges judges to declare their membership in professional associations. Mr. Raposo (Portugal) underlined that the amendment was quite recent and that the EAJ could send a letter to Bulgarian authorities, asking to modify it or asking not to apply any sanction in case judges declare to belong to a professional association. Mr. Magnusson (Iceland) underlined the growing pressure on courts caused by outside activities and warned against the risk that the EAJ is perceived as protesting against transparency. President Régnaud said that, in European countries, the existence of association of judges is considered natural and is no more under discussion, and all international standards proclaim the right to form associations. Obviously, impartiality and transparency are legitimate goals but they must not be used to weaken the role of the associations of judges. Mr. Igreja Matos said that the EAJ should look for a proper balance: it is not against the convenience to declare a membership but wants to understand which the consequences of the declaration are.

Mr. Gass then referred to the situation in Poland as summarized in his report and highlighted that there were no news from the local association. President Régnaud pointed out that the EAJ may intervene only when requested by the concerned national association and he added that Iustitia held a meeting and did not invite any representative of the EAJ.

President Régnaud then recalled that, in Jerusalem, the EAJ decided, following a proposal of the Italian delegation, to set up a working group charged to follow the works of the Council of Europe and he asked Mr. Gass to report on the issue. Mr. Gass said that his WG did not concluded the reflections on this point and suggested reporting this item to the meeting in Moldavia.

5. Working Group “Ways to Brussels” - Report of the President

Mr. Schneiderhan informed the Assembly on the activities of the WG as summarized in his written report.

Mr. Magnusson (Iceland) said that the negotiations for the Brexit might involve other countries that are not members of the EU and it will be important to look at the text of the bilateral agreements concerning cooperation in judicial matters to see to which extension they will affect judicial independence.

Mr. Edwards (Ireland) expressed the support of his association to the idea of being focused on the consequences of Brexit, after which Ireland and Malta will be the only two common law countries belonging to the EU.

Mr. Blake (UK) said that in his country the feeling in the judiciary about Brexit is that business will go on as usual. He underlined that UK is a member also of the Council of Europe and that the EAJ is not EU based and concluded his remarks saying that the British judges will continue cooperating with the Group Ways to Brussels.

6. 2015 monitoring process: results and consequences

President Régnaud recalled the origins of the monitoring procedure and then gave the floor to Vice-President Igreja Matos, who announced that 42 European associations answered the questionnaire, thus representing the 70% of the total amount of the answers. He stressed the need to respect what was provided for in the Statutes and suggested that the AEM should propose to the Central Council to send to the associations which did not reply to the questionnaire a formal notification accompanied by a deadline for the answer. President Régnaud asked Mr. Igreja Matos to inform all Regional Groups of the consequences of not participating in the monitoring procedure.

7. Information on the updating of the Universal charter of judges.

President Régnard then informed the Assembly of the works to update the Universal Charter of the Judge, which had not yet been completed. He recalled that the European members of the working group were Mr. Giacomo Oberto (Secretary General of the IAJ) and Ms. Janja Roblek (Slovenia). He explained the main structure of the revised Universal Charter, where there are new articles, an introduction and references to international instruments. The new articles deal with irremovability, the Supreme Councils of the Judiciary, resources for justice and court administration, judicial security, the respect of sentences by politicians, the workload. The idea of the working group is to finalize the text before the spring meetings of the Regional Groups and to adopt the new Charter at the Central Council in 2017.

Mr. Igreja Matos said that it was a remarkable work for the level of detail, the ability to go to the questions more important for magistrates, the references. The most important aspects in his view were internal independence, court administration, retirement, disciplinary proceedings. Very important, too, will be the publicity to the Charter after its approval.

8. Budget of the European Association of Judges

Secretary General Oberto announced that the EAJ had at its disposal 22,527.63 euro.

As for the annual contributions, there were no arrears and only 8 associations had not yet paid the amount due for 2016. Consequently, all member associations of the EAJ had voting right.

President Régnard invited the associations that had not yet done it to settle their contributions and thanked the Secretariat and Ms. Scolart for the budgetary activities.

President Régnard then passed to the examination of the draft regulation for the Fund. He said that the scope of the Fund was both to give support to the families of Turkish judges and to finance their legal assistance. Nevertheless, the EAJ had to take into account art. 10 of the IAJ Constitution and article 6 of the Statutes of the EAJ. He then gave the floor to Mr. Gass to illustrate the draft. Mr. Gass highlighted that the EAJ has not its own legal personality since it is part of the IAJ and the management of the budget belongs to the executive organs of the IAJ. Therefore, to establish a special Fund the EAJ must obtain the authorization of the IAJ.

President Régnard pointed out that the EAJ Assembly had to decide, first, whether it wanted to establish the Fund and, second, whether it could ask the authorization by the Central Council.

Mr. Tamir (Israel) wondered whether the transfer of money to Turkish judges could endanger them. Honorary President Reissner explained that the aim of the Fund was not to provide support to Turkish judges only, but to help any European judge threatened because of the legitimate exercise of his/her functions. He stressed also that the Presidency Committee of the IAJ unanimously agreed on the possibility of establishing instruments to provide support to judges in difficulties. The point was to resolve juridical issues arising from the circumstance that the EAJ was part of the IAJ and to define the ways of financing the Fund, that in no way could be used by the IAJ for its own functioning or other purposes.

Ms. Thune (Norway) warned about the hypothesis of accepting contributions by charitable organizations, since this could jeopardize the concept of independence of the judiciary.

Mr. Vieira (Portugal) suggested reconsidering the idea of a regional-based fund and proposed to establish a universal fund, at IAJ level.

President Régnard recalled that, already in the past, the EAJ gave example to the other Regional Groups and then to the IAJ and highlighted that the establishment of such a mechanism at IAJ level could request even two years.

Honorary President Woratsch took the floor to express his contrariety. No provisions in the IAJ Constitution foresee social welfare and the EAJ must set up very severe provisions to avoid money to come in the wrong hands, since in most cases the Association will deal with countries dominated by corruption and pressures on judges.

Ms. Jansen (the Netherlands) said that the number of judges potentially in need of support was enormous and warned about the risk of taking unfair decisions. She proposed to collect the money and to deliver it to other associations able to pursue the goal.

Mr. Zuccarelli (Italy) wondered whether the setting up of the Fund could be considered an object of the IAJ according to art. 3 of the Constitution. He highlighted that among the goals established in the article there was the safeguarding of judicial independence (para. 1.A), to be pursued “by furthering mutual assistance” (para 2.D). Even though there was no specific provision allowing the establishment of a Fund, grounds for this were given by the quoted paragraphs. Therefore, if the EAJ Assembly had a common willingness to take some initiatives to support Turkish colleagues, then the only remaining question was to find the proper way to deliver the money to judges in need. Honorary President Woratsch clarified that he was not against the support to judges, but he noticed that the project foresaw also some help to families, which was a form of social welfare and had nothing to do with the independence of the judiciary.

President Régnard proposed to establish the Fund at the Swiss Association but Mr. Gass said that his association was unavailable since the Fund belonged to the EAJ. As to the support to families, he underlined that it was conceived to be temporary and only justified by the detention of a judge. President Régnard then called an open vote on the first question: did the Assembly agree on the establishment of a Fund? The Assembly agreed, with one contrary vote and three abstentions.

President Régnard then asked the Assembly whether the beneficiaries of the Fund should be only Turkish judges or judges from all Europe. Out of 36 voting associations, 25 voted for a general scope, eight voted for a Fund limited to the emergency in Turkey, and three abstained.

President Régnard then asked the third and last question: did the Assembly consider that the EAJ must obtain the preliminary consent of the Central Council? The Assembly approved, with eight abstentions.

Answering a question of Mrs. Matejka (Austria), President Régnard clarified that the EAJ will propose to the Central Council the establishment of a fund general in purpose. If the Central Council will not approve, it will not be possible to propose a Fund devoted only to Turkish colleagues because the Assembly decided right now that the object of the Fund must be general.

9. Elections IAJ presidency committee 2016

President Régnard recalled the rules for the elections of the members of the Presidency Committee. He asked the delegates to look for a preliminary agreement, to avoid the risk that the EAJ President is elected by the other Regional Groups. He suggested also avoiding the proliferation of candidatures, otherwise the European members of the Presidency Committee will be chosen by the other associations.

The following delegates and IAJ Vice-presidents proposed their candidatures: Mr. Mikael Sjoberg, Mr. Thomas Stadelmann, Mr. Đuro Sessa, Mr. José Manuel Igreja Matos, Mr. Francisco Monterde Ferrer.

Answering a question by Mr. Zuccarelli (Italy) President Régnard clarified that it was not possible for the EAJ to endorse since now a candidature for the post of IAJ First Vice-President because nobody knew who will be elected Vice-President and who, among the Vice-Presidents elected, will be interested in applying for the post of First Vice-President.

Ms. Lebe Dessard (Belgium) stressed that the two European Vice-presidents in charge (Mr. Igreja Matos and Mr. Sessa) did a great job and should not be replaced and proposed to concentrate the attention on the only place left free by President Régnard, who will be elected President of the IAJ.

10. Elections of the EAJ president

President Régnard postponed the item to the session of Thursday.

11. Elections of the members of the permanent working groups

President Régnard postponed the item to the session of Thursday.

12. Future meetings: EAJ 2017 and 2018

President Régnard informed the Assembly about the confirmation of the place for the springtime meeting of 2017: the Association of Moldavia will host the meeting from 18 to 21 May in Chisinau. Mr. Schneiderhan took then the floor to express the willingness of the German Association to host the springtime meeting of 2018 in Berlin.

13. Miscellaneous

President Régnard gave the floor to Mr. Stadelmann to comment and explain the enclosures to the “Intervention concept” approved in Barcelona.

Mr. Gass then took the floor to read and comment the draft resolution on Turkey.

President Régnard delivered his farewell speech in his capacity as President of the European Association of Judges.

The session was closed at 15.35.

The President
Mr. Christophe Régnard

The Secretary-General
Mr. Giacomo Oberto

Session of Thursday 20 October 2016

The meeting started at 11.30 a.m.

In attendance were the IAJ President, Mr. Christophe Régnard, the IAJ Vice Presidents Mr. José Manuel Igreja Matos, Mr. Đuro Sessa and Mr. Mikael Sjöberg, the Honorary Presidents Mr. Jose Maria Bento Company, Mr. Gerhard Reissner and Mr. Günter Woratsch, the Secretary-General Mr. Giacomo Oberto, as well as the delegates of the following associations:

ALBANIA - Proxy to Italy	ISRAEL
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BELGIUM	LITHUANIA
BOSNIA AND HERZEGOWINA - Proxy to Croatia	LUXEMBOURG
BULGARIA	MONTENEGRO
CROATIA	NETHERLANDS
CZECH REPUBLIC - Proxy to Hon. Pres. Woratsch	NORWAY
DENMARK	PORTUGAL
ESTONIA	SERBIA - Proxy to Slovenia
FINLAND	SLOVAKIA - Proxy to Hungary
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GEORGIA	SPAIN
GERMANY	SWEDEN
GREECE	SWITZERLAND
HUNGARY	TURKEY - Proxy to Switzerland
ICELAND	UKRAINE
IRELAND	UNITED KINGDOM

10. Elections of the EAJ president

President Régnard announced that he received only the candidature of Vice-President Igreja Matos for the post of EAJ President.

Ms. Duval (France) took the floor to congratulate Mr. Igreja Matos, Mr. Sessa and Mr. Sjoberg for their election as IAJ Vice-President and expressed the support of the French Association to the candidature of Mr. Igreja Matos as President of the EAJ. Honorary President Bento Company took the floor to endorse the election of Mr. Igreja Matos as EAJ President.

The Assembly unanimously elected Mr. José Manuel Igreja Matos as President of the EAJ.

The EAJ President Mr. Igreja Matos delivered his speech, thanking his predecessor President Régnard for having made the EAJ stronger and the Portuguese Association for its support.

11. Elections of the members of the permanents working groups

President Igreja Matos read the lists of candidates provided by the present Presidents of the Groups.

The Working Group on the situation of member associations will be chaired by Mr. Stephan Gass (Switzerland) and the members will be Mr. Eerik Meelis (Estonia), Mr. Ronald McKay Lord Eassie (UK), Mrs. Janja Roblek (Slovenia), Mrs. Eleonora Viegas (Portugal), Mr. Nicholas Blake (UK), Mr. John Edwards (Ireland), Mrs. Viviane Lebe Dessard (Belgium), Mr. Thomas Stadelman (Switzerland), Mr. Peter Schneiderhan (Germany), the Honorary President Mr. Gerhard Reissner. The Working Group “Ways to Brussels” will be chaired by Mr. Peter Schneiderhan (Germany) and the members will be Mrs. Celine Parisot (France), Mrs. Viviane Lebe Dessard (Belgium), Mr. Dieter Freiburghaus (Switzerland), Mrs. Rosa Jansen (the Netherlands), Mr. John Edwards (Ireland), Mr. Ronald McKay Lord Eassie (UK), Mr. Nicholas Blake (UK).

President Igreja Matos asked whether there were other candidates and, having received a negative answer, called for an open vote. The Assembly unanimously appointed the members of the two permanent WGs.

President Igreja Matos then passed onto the examination of the text of the Regulations of the Provident Fund. Mr. Blake read the draft and commented it. After a debate and the rewording of paragraph 3 and 4, the Assembly unanimously approved the Regulation of the Fund (annexed to these minutes) and elected the five members of the Committee, whose Chairman will be the President of the EAJ: Mr. Thomas Stadelman (Switzerland), Mrs. Eleonora Viegas (Portugal), Mr. John Edwards (Ireland), Mr. Peter Schneiderhan (Germany), Mrs. Etelka Halasz (Hungary).

The IAJ General Secretariat will open a special bank account for the Fund.

President Igreja Matos read the letter addressed to Bulgarian authorities and Mr. Atanasov (Bulgaria) took the floor to explain the situation in his country and to thank the EAJ.

Mrs. Ievtushenko (Ukraine) took the floor recalling the resolution on Ukraine approved in Gdansk and asked whether the EAJ verified the fulfillment of its recommendation. President Igreja Matos said that the resolution was sent to Ukrainian authorities, which never replied. He added that not even the Ukrainian Association communicated any further news on the argument. Vice-President Sessa underlined the importance of the cooperation by a local association to get information on the situation in a country, since the EAJ cannot ascertain it directly sending its representatives everywhere, every few months.

President Igreja Matos thanked the delegates and closed the meeting at 12.30.

The President
Mr. José Manuel Igreja Matos

The Secretary-General
Mr. Giacomo Oberto